International Conference on Convergence of Corporate Governance Norms

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Reports

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Contents

Day 1

Session 1 – Corporate governance, accountability and stakeholder participation

The first session of the day, chaired by Mr. Haldea, began throwing light on the three main objectives which corporate governance seeks to achieve, i.e. transparency, accountability and sustainability.

The discussion was initiated by Mr. Sumit Kumar who highlighted the differences in the corporate governance practices of Infosys and Satyam. He concluded that ethics, efficiency and accountability are most important for the long term survival of a company and therefore all companies should follow the standards as set by Infosys. Mr. Michael Peters examined how ethnicity, culture and religion play a role in the enforcement of shareholder rights and corporate behavior. He explained how every value system is distinct to a community and that the reflection of the same must be incorporated into the corporate governance practices. Ms. Sumona Ghosh, propounded that Corporate Stakeholder Responsibility requires the companies to be committed on four levels which includes manager understanding the customers, dynamic regulatory and political environment, manager recognizing international issues and connection between ethical values and positive firm outcome.

Mr. Anindya J. Mishra critically assessed the McDonaldization thesis with respect to Corporate Governance. He suggested that the resulting change at the societal level is inevitable. Therefore, intervention and regulation is required to eliminate the risks from the system. Ms Rashmi Bothra looked into the environmental policies of Indian Corporations and recommended that issues like protection of environment cannot be left untouched any further as without a healthy environment, all economic gains would be worthless.

Mr. P. Haldea concluded the session by comparing Corporate Governance with "Shamshaan Gyan", which is concerned only with morality and honesty. Citing the example of Satyam he emphasized that corporate governance has in reality never been put into practice. Discussing clause 49 of the Listing Agreement, he stated that it does not mention the qualifications of an independent director and only mentions criteria for disqualification as independent director. Lastly he reiterated the need for corporations to be more proactive towards becoming good corporate citizens and should be punished severely for their wrong doings.

Session 2 (Post Lunch) – Continuing theme I

The papers presented in Session 2 dealt with contemporary areas in the corporate governance scenario thereby providing unexplored approaches in terms of stakeholder participation.

Opening the session, Mr. Tirthankar Das emphasized on the role played by auditors to instill confidence in market and to provide a true and fair account of the company. Discussing this in light of the Enron and Parmalat scandals, he concluded by recommending that reforms in appointment of auditors must be considered so as to ensure a reasonable reliable corporate scenario. Ms. Neha Pathakji also reiterated the role played by the auditor's and recommended that the convergence of corporate practice in the Indian scenario is essential in order to bridge the disconnect which exists between reality and what is portrayed.

Laying emphasis on the requirement of corporate social responsibility at the workplace, market place, environmental and community level, Mr. Jayanta Banerjee discussed the same with regard to the practices of Coca Cola Inc. Ms. Nivedita Shree presented suggestions towards reassessing the corporate governance code to generate a holistic, innovative and optimal governance system. In an information society, the role of media in instilling social responsibility was put forth by Mr. Amarendra Kumar Dash. He concluded that active corporate oriented journalism facilitates the stakeholders to remain informed of business strategies and there is a requirement to create the requisite support systems.

Outcome

The panel discussion focused upon corporate governance being an innate character which should emanate from the very nature of the entity and cannot be imposed upon the corporate fraternity. The panel concluded that the nature of business is ultimately centered upon maximization of profits, thereby shifting the focus away from the requirements of transparency and accountability. Dwelling upon the issue of independent directors having a nexus with ensuring better governance, several opinions were put forth to understand that the same was not a necessity.

Session 3 – The role of stakeholder and sustainable development

The session focused upon the mode in which stakeholders could play a role in developing efficient models for corporate governance. Drawing inferences from the focus of the preceding discussions on the Satyam issue, the chairperson for the session, Mr. Jitesh Khosla reflected that the case in fact portrays one of the best models of convergence in terms of stakeholders role in building a corporate establishment.

Beginning with OECD guidelines and development of a similar model, Mr. Zeeshan Ali Khan reiterated the stakeholder power in ensuring fairness by playing an active role in corporate management. On the lines of the OECD guidelines, it was suggested that more activism be introduced in order to further the objectives of corporate governance in India. Mr. Olawale Ajai discussed the protection of stakeholders interests in light of prevailing models of corporate social responsibility in different parts of the world. Looking into the aspect of director liability, he suggested that while the company's interest is a goal sought to be achieved, the stakeholder interest cannot be undermined. Ms. Nimita Pandey analysed the relationship between mission statement content and stakeholder management actions. She put forth the view that while mission statements form a mode of ascertaining the corporate intention, the same is never seen in practice. She suggested that the inclusion of specific stakeholder groups in missions would most likely result in ensuring better management and efficient policy decisions.

Ms. Urjesha Butt analyzed the influence of globalization on business practices. She pointed out various areas where corporate governance should play a role in shaping the company such as employee interests, director liability, investment safeguards and environmental consciousness. Mr. Tulsi Ram Tibrewala focused on the inculcation of moral, ethical and spiritual values into corporate governance. Emphasizing that moral values aid transforming character and ensuring social efficiency, he suggested that companies must direct efforts in imbibing morality and ethics to ensure a value-based functioning. Mr. Sudip Chatterjee drew a relation between corporate governance and sustainable development. He reflected that GRI guidelines provide companies with a good and established structure for their reporting information in a transparent manner. He concluded that in a globalised environment, corporate governance must structure growth that reaches the marginalised segments of society and narrows the gap between the developing and developed countries.

Outcome

The panel discussion reiterated that corporate governance is based on the fundamental notions of morality and ethics. With the multitude and multifarious character of the stakeholders, it was suggested that focus must be placed on facilitating collective interest management. Further, the stakeholders must themselves actively take part in a concerted manner to ensure fair management. This would therefore require the stakeholders to bring in the characteristics of morality and ethics into the corporate value system.

Day 2

Session 4 – Corporate Governance for Public Sector Enterprises

The second day of proceedings began with presentations on the need for public sector undertakings to consider and implement corporate governance norms. Ms. Sukanya Bhaumik opened the session by illustrating the differences between the implementation of corporate governance in the private sector when compared to that in the public sector. She emphasized that the adaptation of similar norms would be difficult given the strong political and bureaucratic influence on the structure and functioning of public sector units. In furtherance of this view, Ms. Kriti Das reiterated that corporate governance is beyond the realm of law and effective control can be achieved only by alienating the same from politics and bureaucracy.

She suggested that there is an urgent need to allow free discussion and disclosure as well as a need for proprietary audit.

Taking the example of Bharat Heavy Electronics Limited (BHEL), Ms. Kanika Gupta illustrated a successful model of corporate governance in the public sector which focuses on the four pillars of conformance – independence of the Board, integrity, recognition of obligation towards stakeholders and transparency. Focusing on ONGC, Mr. Aakash Sherwal suggested that public sector units must have a different approach in application of the core standards of corporate governance wherein efforts should be directed towards social welfare and interest of majority stakeholders. He further stated the need the investing authorities to focus on enabling the organizations to partake their activities without undermining corporate social responsibility. Concluding the session, Mr. Mrityunjay Biswas provided insights into the role of right to information in providing a mode through which accountability can be ensured. He suggested that there should be an increase in shareholder activism through availing the Right to Information Act whereby vigilance can be strengthened.

Outcome

The panel discussion raised pertinent issues as to whether a separate model of corporate governance should be evolved for public sector enterprises. While reiterating the need of public sector units to actively work towards establishing good governance practices, the panel suggested that there should also be active shareholder participation. Concluding that a corporate is inherently concerned in the concept of production and selling, the view put forth was whether norms were at all necessary for public sector undertakings. Even if corporate social responsibility is inculcated within the governance structure, it would not be the best mode of ensuring social responsiveness if it is without the assent of the shareholders.

Session 5 – Corporate Governance in SME's

Chairing this session, Mr. Vijay Kapur opened the discussion by illustrating the role played by small and medium scale enterprises within the social structure. Reflecting that poverty being a major concern for a developing nation such as India, he stated that there is the inherent incapacity and dilemma so as to comprehend how governance is to be achieved in the prevailing scenario.

Ms. Tinju Thomas began the session by discussing the role played by SME's as a backbone to the economy of the country, as base for the industrial development process and as driving forces for economic advancement. She discussed the inability of SME's to adopt measures of corporate governance in light of issues such as low finance, lack of opportunity, business being carried out in the family, no professionals, absences or low foreign direct investment and short term goals of survival rather that concentration on long term maximization of business. She concluded by suggesting the development of regulations for capacity building and empowerment of this sector.

Mr. Pankaj Roy Gupta on similar terms reflected on the difficulties faced by SME's which acted as impediments and challenges towards adopting good corporate governance norms. He suggested that the enterprises require more sensitization and awareness in the realm of corporate governance. Mr. Anil Mishra focused on local governance strategies whereby cluster based governance can establish market stability as well as better bargaining power as a mode of long term success and sustainability. Ms. Shreya Ganguly put forth views on poverty alleviation, creation of opportunities and grass root level contact to facilitate the integration of the SME growth chain. She stated that multi-skill development should be implemented through efficient information dissemination and assimilation of business processes which automatically inculcate business ethics in SME's.

Mr. G. Muruganantham focused upon the need for SME's to adopt corporate governance norms in order to ensure growth and long term profitability. He suggested that the focus must be directed towards the development of a strong management structure which will form a strong structural basis for shaping the organization. Given that SME's have multiple shareholder interests to be kept in mind, he suggested that the same must be carefully implemented. Taking examples from various South-East Asian countries, Mr. Prashant Kumar was of the opinion that governmental schemes should be more directed towards satisfying the current requirements of the enterprises while providing opportunity for more expansion and development. He concluded that the MSME Act in 2006 was an affirmation of government's commitment to the cause of SMEs growth. Ms. Sarashi Chakraborthy stated that most of the legislative, judicial, administrative and policy initiatives for SMEs have till date addressed issues pertaining to finance. She suggested that the same should however be global in approach in order to provide better access to international market and trade and solve problems pertaining to labour.

Outcome

The session concluded on the discussion relating to whether corporate governance is at all necessitated for SME's. Ranging from views on the level of interference which may occur to the changing character of the enterprises, the discussion brought out questions relating to independence, ownership and regulation of SME's. It was suggested that critical grass root level issues need to be considered in implementing corporate governance norms for SME's. While the legal scenario may necessitate the same, in practice implementation may pose several problems.

Session 6 – Corporate Governance – A Road Map

The discussion was started by Mr. J.P. Singh who emphasized that good Corporate Governance needs to be emanated within the soul and should not merely be termed as regulatory provisions creating impediments in company's operations. He substantiated his argument by stating that problem lies not in the creation of a formal governance structure but in the absence of will to enforce the formal structure and the way to enforce the same. Mr. Ashutosh Priya suggested that tougher provisions and their strict implementation are required for preventing defaults by companies. He also stressed on self-regulation for improving Corporate Governance. Ms. Aishwarya Nagpal proposed an internal governance structure of the self regulatory institutions which divest more power in them. For effective regulation of corporate sector, the presenter suggested that a group should be introduced which will lessen the gap between the private sector and the government. Further, she suggested that new institutions for excellence in Corporate Governance for developing corporate culture should be opened. Mr. A.S. Vishwajith highlighted the features and effectiveness of internationally accepted Anglo American Model of Corporate Governance in India and China. He suggested that an effective legal system and a strong international regulatory mechanism are required for enforcing the model.

Mr. Kirti Ranjan Swain discussed the role of corporate governance in light of the code adopted by the State Bank of India. He stated that the changing nature of banking in India has necessitated the adoption of corporate governance norms in order to gain confidence amongst the public. Illustrating the code of governance adopted by SBI, he suggested that banks bear a greater onus towards maintenance of standards of accountability and disclosure. Ms. Arunima Haldar discussed the relationship between foreign portfolio investment and corporate governance in Indian firms. She suggested that there is a positive relationship between foreign portfolio investment and corporate governance as the former depends financial attributes as well corporate governance factors.

Mr. Himanshu Bhushan focused on the Anglo-American model from the perspective of its potential development impact in light of three factors - growth, shareholder concerns and employment. Considering the Indian scenario, he suggested that open discussion must be adopted between companies and the society. He also stated that resource allocation, political and legal reforms can enable the society to exercise effective control over corporations. Mr. Aditya Vikram Jalan studied the enforcement mechanisms of corporate governance norms and the development of a mechanism to strengthen the same. He reflected that while corporate governance frameworks in various developing countries are at par with developed countries, the same needs to be implemented in letter as well as spirit. He suggested that effectiveness of self-regulatory agencies and organizations can encourage better and more efficient enforcement of these standards.

Outcome

The panel suggested that corporate governance would focus more on internalization of external governance which is required to be developed by government through the process of facilitation and concession.